

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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COREY MARROW,

Plaintiff,

Case No.  
14 CV 05473 (CS)(JCM)

-against-

ANSWER

THE CITY OF MOUNT VERNON, a municipal entity,  
MVPD OFFICERS 2-4, MVPD POLICE OFFICERS  
"JOHN DOE 1-6" POLICE OFFICER MICHAEL  
GREGORIO, POLICE OFFICER KENNETH BRUCE,  
POLICE OFFICER JOANNA SANTOS, AND POLICE  
SERGEANT STEVEN SEXTON,

Defendants.  
-----X

Defendants, THE CITY OF MOUNT VERNON, a municipal entity, MVPD OFFICERS 2-4, MVPD POLICE OFFICERS "JOHN DOE 1-6" POLICE OFFICER MICHAEL GREGORIO, POLICE OFFICER KENNETH BRUCE, POLICE OFFICER JOANNA SANTOS, AND POLICE SERGEANT STEVEN SEXTON, by and through the City of Mount Vernon Office of the Corporation Counsel, answering the Plaintiff's Amended Complaint alleges, upon information and belief:

**PRELIMINARY STATEMENT**

1. Denies the truth of each and every allegation contained in paragraph numbered "1" of the Complaint and respectfully refers all questions of law to the Court.

**JURISDICTION**

2. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraphs numbered "2" and "3" of the Complaint and respectfully refers all questions of law to the Court.

### **VENUE**

3. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph numbered “4” of the Complaint and respectfully refers all questions of law to the Court.

### **JURY DEMAND**

4. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph numbered “5” of the Complaint and respectfully refers all questions of law to the Court.

### **THE PARTIES**

5. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph numbered “6” of the Complaint.

6. Admits the truth of each and every allegation contained in paragraph numbered “7” of the Complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraphs numbered “8”, “9”, “10”, “11”, “12”, “13”, “14”, and “15” of the Complaint and respectfully refers all questions of law to the Court.

### **FACTS COMMON TO ALL CLAIMS**

8. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph numbered “16”.

9. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph numbered “17” of the Complaint and respectfully refers all questions of law to the Court.

10. Denies the truth of each and every allegation contained in paragraph numbered “18” of the Complaint and respectfully refers all questions of law to the Court.

11. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraphs numbered “19”, “20”, “21”, “22”, “23”, “24”, “25”, “26”, “27”, “28”, “29”, “30”, “31”, “32”, “33”, “34”, “35”, and “38” of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraphs numbered “36” and “37” of the Complaint and respectfully refers all questions of law to the Court.

13. Denies the truth of each and every allegation contained in paragraphs numbered “39” of the Complaint and respectfully refers all questions of law to the Court.

#### **FIRST CLAIM FOR RELIEF**

14. In response to paragraph “40” of the Complaint, Answering Defendants repeat and reallege as if fully set forth herein paragraphs “1” through “13”.

15. Denies the truth of each and every allegation contained in paragraphs numbered “41”, “42”, “43”, “44”, “45”, “46”, and “47” of the Complaint and respectfully refers all questions of law to the Court.

#### **SECOND CLAIM FOR RELIEF**

16. In response to paragraph “48” of the Complaint, Answering Defendants repeat and reallege as if fully set forth herein paragraphs “1” through “15”.

17. Denies the truth of each and every allegation contained in paragraphs numbered “49”, “50”, “51”, “52”, “53” and “54” of the Complaint and respectfully refers all questions of law to the Court.

### **THIRD CLAIM FOR RELIEF**

18. In response to paragraph “55” of the Complaint, Answering Defendants repeat and reallege as if fully set forth herein paragraphs “1” through “17”.

19. Denies the truth of each and every allegation contained in paragraphs numbered “56”, “57”, “58”, “59”, and “61” of the Complaint and respectfully refers all questions of law to the Court.

20. Denies the truth of each and every allegation contained in paragraph numbered “60” of the Complaint.

### **FOURTH CLAIM FOR RELIEF**

21. Paragraphs “62”, “63”, “64”, “65”, and “66” of the Complaint were withdrawn by Plaintiff.

### **FIFTH CLAIM FOR RELIEF**

22. In response to paragraph “67” of the Complaint, Answering Defendants repeat and reallege as if fully set forth herein paragraphs “1” through “21”.

23. Denies the truth of each and every allegation contained in paragraphs numbered “68”, “69”, and “71” of the Complaint and respectfully refers all questions of law to the Court.

24. Denies the truth of each and every allegation contained in paragraph numbered “70” of the Complaint.

### **SIXTH CLAIM FOR RELIEF**

25. In response to paragraph “72” of the Complaint, Answering Defendants repeat and reallege as if fully set forth herein paragraphs “1” through “24”.

26. Denies the truth of each and every allegation contained in paragraphs numbered “73”, “74”, and “75” of the Complaint and respectfully refers all questions of law to the Court.

## **SEVENTH CLAIM FOR RELIEF**

27. In response to paragraph "76" of the Complaint, Answering Defendants repeat and reallege as if fully set forth herein paragraphs "1" through "26".

28. Denies the truth of each and every allegation contained in paragraphs numbered "77", "78", "79", "80", and "82" of the Complaint and respectfully refers all questions of law to the Court.

29. Denies the truth of each and every allegation contained in paragraph numbered "81" of the Complaint.

### **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

If the plaintiff sustained damages as alleged in the complaint, which is expressly denied by these answering defendants, then such damages were caused in whole or in part by the culpable conduct of the plaintiff. The amount of damages otherwise recoverable, if any, shall therefore be diminished in the proportion of fault attributable to plaintiff.

### **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

Plaintiff's complaint fails to state a claim upon which relief may be granted.

### **AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

If the plaintiff sustained damages, as alleged in the complaint, other than by reason of his own culpable conduct and comparative negligence, which is expressly denied by Defendants, then such injuries and damages were caused in whole or in part by the culpable conduct of some third person or persons over whom the defendants exercised no control.

### **AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

Defendants acted in good faith and without the intent to violate plaintiff's civil rights.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

Any and all officers named in this suit are protected from suit by the doctrine of qualified immunity.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

Any and all officers named in this suit are protected from suit by the doctrine of absolute immunity.

**AS AND FOR AN SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's constitutional and statutory rights were not violated by the defendants.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

The actions of the Defendants were justified under the circumstances.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

Plaintiff is not entitled to recover punitive damages against the Defendants because the conduct alleged did not rise to the level of culpable conduct that would support such a claim.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

The officers had probable cause to search and seize the Plaintiff.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

The officers had arguable probable cause.

**AS AND FOR A TWELVETH AFFIRMATIVE DEFENSE**

Plaintiff is not entitled to recover punitive damages against THE CITY OF MOUNT VERNON, a municipal entity, MVPD OFFICERS 2-4, MVPD POLICE OFFICERS"JOHN DOE 1-6" POLICE OFFICER MICHAEL GREGORIO, POLICE OFFICER KENNETH BRUCE, POLICE OFFICER JOANNA SANTOS, AND POLICE SERGEANT STEVEN

SEXTON or any other Officer of the Mount Vernon Police Department since his conduct did not rise to the level of morally culpable conduct that would support such a claim.

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims against all answering Defendants are frivolous.

**AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

There is no policy, custom, or practice in the City of Mount Vernon which caused a violation of the Plaintiff's constitutional rights, thus Plaintiff is not entitled to any relief under any Monell claims.

**AS AND FOR A FIFTHTEENTH AFFIRMATIVE DEFENSE**

The City of Mount Vernon cannot be held liable based on respondent superior for the alleged violations of plaintiff's civil rights.

**AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE**


Plaintiff's claims against the answering Defendants are frivolous.

**WHEREFORE**, Defendants, THE CITY OF MOUNT VERNON, a municipal entity, MVPD OFFICERS 2-4, MVPD POLICE OFFICERS"JOHN DOE 1-6" POLICE OFFICER MICHAEL GREGORIO, POLICE OFFICER KENNETH BRUCE, POLICE OFFICER JOANNA SANTOS, AND POLICE SERGEANT STEVEN SEXTON, demand judgment dismissing the Complaint in its entirety, or in the event defendants are adjudged liable, granting judgment over or apportioning such liability in accordance with its equitable share of responsibility and awarding the costs of this action, together with such other and further relief as this Court deems just and proper

Dated: Mount Vernon, New York  
January 26, 2016

Yours, etc.,

Office of the Corporation Counsel  
Attorney for Defendant  
The City of Mount Vernon  
Office and PO Address  
One Roosevelt Square  
Mount Vernon, New York 10550

  
By: Tichina L. Johnson (TJ2515)  
Assistant Corporation Counsel

To:  
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Stecklow Cohen & Thompson  
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(212) 566-8000  
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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER**

COREY MARROW,

Plaintiff

-Against-

THE CITY OF MOUNT VERNON, a municipal entity,  
MVPD OFFICERS 2-4, MVPD POLICE OFFICERS  
"JOHN DOE 1-65" POLICE OFFICER MICHAEL  
GREGORIO, POLICE OFFICER KENNETH BRUCE,  
POLICE OFFICER JOANNA SANTOS, AND  
POLICE SERGEANT STEVEN SEXTON

Defendants

**ANSWER**

**OFFICE OF THE CORPORATION COUNSEL**

*Attorney for*  
*Office and Post Office Address*  
City Hall – Roosevelt Square  
Mount Vernon, New York 10550  
Telephone No. (914) 665-2366

Service of copy of the within

is hereby admitted.

Dated,

Attorney(s) for

**PLEASE TAKE NOTICE**



NOTICE OF  
ENTRY

*that the within is a (certified) true copy of  
entered in the office of the clerk of the within named court on*

2015



NOTICE OF  
SETTLEMENT

*that an Order of which the within is a true copy will be presented for settlement to the Hon.  
one of the judges of the within named Court,*

*at  
on 2015, at M.*

*Dated:*

*Attorney for*

Office of the  
Corporation Counsel  
Defendant City of Mount Vernon  
City Hall  
Mount Vernon, New York 10550

To  
Attorney(s) for